

### REMARKS

The Examiner has rejected the claims as being obvious over the issued '611 patent to Dodick in view of the '591 patent to Banko.

Applicant understands the crux of the Examiner's rejection to be that Banko '591 makes it obvious to take the Dodick '611 device and by drilling the needle bore create a unitary construction and a smooth inner surface.

The Banko '591 Patent is concerned with a number of features; none of which are directed to or concerned with increasing aspirating flow rate by minimizing turbulence.

Banko is directed to such matters as: (a) reducing infusion fluid leakage by providing a silicone sleeve, (b) directing infusion fluid flow away from the aspirating hole, (c) a valve that closes when the evacuation rate exceeds a certain point, (d) a variable capacity reservoir to provide variable infusion flow, (e) a needle with barriers, baffles and steps to increase cutting and suction, and (f) an aspiration opening on one side of the needle (see column 4, lines 9-32).

Indeed, much of what Banko does tends to increase turbulent flow. For example, turbulent flow is enhanced by the aspiration opening 18 on the side of the needle as shown in FIG. 7B. Turbulence is also caused by having the varying diameter aspirating channel 16 as shown in FIGs. 28, 29 and 30.

In any case, Banko does not teach and is not concerned with a needle design to minimize turbulence and thus increase flow rate.

Accordingly, Applicant believes that there is nothing in Banko which suggests making the modification to the design shown in the Dodick '611 Patent that would come up with the design provided by Applicant herein. That is, there is no

motivation to use any teachings in Banko to modify Dodick in accordance with the teachings of Applicant.

Most specifically, there is nothing in the art cited which would lead one skilled in the art to recognize that in the Dodick design an improvement could be made by employing an aspirating channel with a smooth surface. This is an essential reason why Applicant requests reconsideration by the Examiner and allowance of the claims in this case.

Claim 1 has been amended to more clearly point out the structural relationship involved. None of the dependent claims 2-20 have been amended.

In reviewing the claims for the purpose of setting forth the above discussion, Applicant realizes that the relationship between the operating port and the aspirating channel was not explicitly set forth. Claim 1 has been amended to make that relationship more explicit. Furthermore, claim 1 has been amended to note that the unitary sidewall and smooth surface are to decrease turbulence and increase flow rate as contrasted with the closest prior art; which prior art is the Dodick '611 Patent.

The impact of the less turbulent flow due to a smooth bore needle is a major teaching of this application. See especially paragraphs 16-18, 43-45 and 49-50. These are teachings not found in either cited reference.

As a consequence of increased fluid flow due to decreased turbulence, the target is modified in a fashion which in turn enhances operation of the surgical needle.

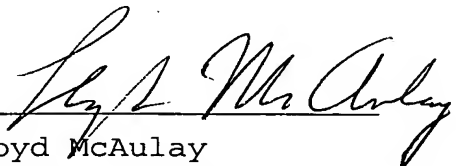
For example, the target surface itself is at an angle of approximately 45 degrees to the axis of the aspirating channel. This is specified, for example, in claim 5. By contrast the target in the Dodick design is the surface 38 which is perpendicular to the axis of the needle. Because it

does not "face" the port 30, it does not afford as direct a path from the source of the shockwaves to the port at which the tissue to be ablated is held.

Accordingly, Applicant respectfully requests reconsideration and allowance of the claims in this case.

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